

ATTACHMENT 2

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: DA VINCI SURGICAL
ROBOT ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Case No.: 3:21-cv- 03825-AMO-LB

**DECLARATION OF ASHLEY E. BASS IN
SUPPORT OF OPPOSITION OF
DEFENDANT INTUITIVE SURGICAL, INC.
TO PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

1 I, ASHLEY E. BASS, declare as follows:

2 I am an attorney admitted *pro hac vice* to practice before this Court in this proceeding. I am a
3 partner with the law firm of Covington & Burling LLP, counsel for Intuitive Surgical, Inc. (“Intuitive”) in this matter. I have personal knowledge of the facts set forth herein, and if called to testify, I could and
4 would testify competently thereto.
5

6 1. Attached to this declaration as **Exhibit 1** is a true and correct copy of the Expert Rebuttal
7 Report of James W. Hughes, Ph.D., dated August 2, 2024.

8 2. Attached to this declaration as **Exhibit 2** is a true and correct copy of excerpts of a
9 United States Securities and Exchange Commission Form 10-K for Intuitive the fiscal year ended
10 December 31, 2023, which is publicly available on Intuitive’s website at [https://isrg.intuitive.com/sec-](https://isrg.intuitive.com/sec-filings)
11 filings.

12 3. Attached to this declaration as **Exhibit 3** is a true and correct copy of the Declaration of
13 David Rosa dated April 12, 2023 and the exhibits thereto, which were previously submitted in
14 connection with Intuitive’s summary judgment motion as ECF Nos. 153-2 through 153-4.

15 4. Attached to this declaration as **Exhibit 4** is a true and correct copy of a document
16 produced by Intuitive in this matter as Intuitive-00372053 – Intuitive-00372055.

17 5. Attached to this declaration as **Exhibit 5** is a true and correct copy of excerpts of the
18 transcript of the deposition of Judith Schimmel, taken in this litigation on September 22, 2022.

19 6. Attached to this declaration as **Exhibit 6** is a true and correct copy of excerpts of the
20 transcript of the deposition of David Rosa, taken in this litigation on May 1, 2023.

21 7. Attached to this declaration as **Exhibit 7** is a true and correct copy of a document
22 produced by Intuitive in this matter as Intuitive-00091682 – Intuitive-00091687.

23 8. Attached to this declaration as **Exhibit 8** is a true and correct copy of excerpts of the
24 transcript of the deposition of John Sampson, taken in this litigation on November 3, 2022.

25 9. Attached to this declaration as **Exhibit 9** is a true and correct copy of excerpts of the
26 transcript of the deposition of John Wagner, taken in this litigation on October 11, 2022.
27
28

1 10. Attached to this declaration as **Exhibit 10** is a true and correct copy of Defendant's
2 Exhibit 31, as marked in the deposition of Sandra Sosa-Guerrero taken in this litigation on September
3 23, 2022, and originally produced by Plaintiffs as LARKIN00009350 – LARKIN-00009355.

4 11. Attached to this declaration as **Exhibit 11** is a true and correct copy of Defendant's
5 Exhibit 32, as marked in the deposition of Sandra Sosa-Guerrero taken in this litigation on September
6 23, 2022, and originally produced by Plaintiffs as LARKIN00009370 – LARKIN-00009377.

7 12. Attached to this declaration as **Exhibit 12** is a true and correct copy of excerpts of the
8 transcript of the deposition of Sandra Sosa-Guerrero, taken in this litigation on September 23, 2022.

9 13. Attached to this declaration as **Exhibit 13** is a true and correct copy of Defendant's
10 Exhibit 26, as marked in the deposition of Sandra Sosa-Guerrero taken in this litigation on September
11 23, 2022, and originally produced by Plaintiffs as LARKIN00009051 – LARKIN-00009072.

12 14. Attached to this declaration as **Exhibit 14** is a true and correct copy of excerpts of the
13 transcript of the deposition of Marshall Mohr, taken in this litigation on November 7, 2022.

14 15. Attached to this declaration as **Exhibit 15** is a true and correct copy of a document
15 produced by Intuitive in this matter as Intuitive-00107443 – Intuitive-00107451.

16 16. Attached to this declaration as **Exhibit 16** is a true and correct copy of an excerpt of
17 Phillip E. Areeda, Herbert Hovenkamp, and Einer Elhauge, *Antitrust Law* Vol. X (2d ed. 2004).

18 17. Attached to this declaration as **Exhibit 17** is a true and correct copy of excerpts of the
19 transcript of the deposition of Professor Einer Elhauge, taken in this litigation on July 24, 2024.

20 18. Attached to this declaration as **Exhibit 18** is a true and correct copy of excerpts of the
21 transcript of the deposition of Dr. Ricardo Estape, taken in this litigation on October 22, 2022.

22 19. Attached to this declaration as **Exhibit 19** is a true and correct copy of excerpts of the
23 corrected transcript of the deposition of Jose Carlos Gonzalez, taken in this litigation on October 17,
24 2022.

25 20. Attached to this declaration as **Exhibit 20** is a true and correct copy of excerpts of the
26 transcript of the deposition of Todd Thomas, taken in this litigation on November 10, 2022.

27 21. Attached to this declaration as **Exhibit 21** is a true and correct copy of excerpts of the
28 transcript of the deposition of Karen F. Waninger, taken in this litigation on October 6, 2022.

22. Attached to this declaration as **Exhibit 22** is a true and correct copy of excerpts of the transcript of the deposition of Mark Early, taken in this litigation on October 6, 2022.

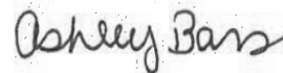
23. Attached to this declaration as **Exhibit 23** is a true and correct copy of Defendant's Exhibit 4, as marked in the deposition of Judith Schimmel taken in this litigation on September 23, 2022, and originally produced by Plaintiffs as FRANCISCAN-00052148 – FRANCISCAN-00052186.

24. Attached to this declaration as **Exhibit 24** is a true and correct copy of Defendant's Exhibit 5, as marked in the deposition of Judith Schimmel taken in this litigation on September 23, 2022, and originally produced by Plaintiffs as FRANCISCAN-00056312 – FRANCISCAN-00056338.

25. Attached to this declaration as **Exhibit 25** is a true and correct copy of excerpts of the electronic version of Phillip E. Areeda and Herbert Hovenkamp, *Antitrust Law* (4th and 5th ed. 2018–2023).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: August 2, 2024



ASHLEY E. BASS